

***IN THE UNITED STATES PATENT AND TRADEMARK OFFICE***

Applicant:     Smith, Kyl L.  
Title:           COMPOSITIONS FOR  
                  IMPROVING MENTAL  
                  PERFORMANCE  
Appl. No.:     10/519,515  
Filing Date:   12-07-2004  
Examiner:     FLOOD, MICHELE C  
Art Unit:      1655  
Confirmation   2543  
Number:

**RESPONSE TO RESTRICTION REQUIREMENT**  
**AND NOTICE OF INCOMPLETE REPLY**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This paper is filed in response to the Restriction Requirement set forth in the Office Action mailed April 10, 2007 and also should be considered a response to the Notice of Incomplete Reply mailed October 3, 2007. Kindly note that this Notice was mailed to Applicant's prior counsel. Please note that prosecution of this case has been transferred to the Firm of Foley & Lardner LLP. Applicant's attorney has enclosed another copy of the previously filed Revocation and New Power of Attorney, along with a Petition for a Five-Month Extension of Time for responding to the Notice of Incomplete Reply, and the appropriate fees for responding to same.

Applicant hereby provisionally elects Group I, Claims 1-8, for examination. Regarding the requirement for election of a species, Applicant provisionally elects the species proanthrocyanidin, disclosed in claims 2 and 3. Applicant respectfully traverses the Restriction Requirement, on the grounds that the claims are co-extensive, and a search of all groups is not considered an unnecessary burden on the Office.

The Commissioner is hereby authorized to charge any additional fees believed due with this submission and to credit any overpayment, to Deposit Account No. 19-0741. If the enclosed papers are considered incomplete, the Mail Room is respectfully requested to contact the undersigned at telephone (617) 342-4000.

The Applicants submit that the present application is in condition for allowance and such action is respectfully requested. Should any questions or issues arise concerning this application, the Examiner is encouraged to contact the undersigned at the telephone number 617-342-4000.

Respectfully submitted,

*[Handwritten mark]*

By 

John M. Garvey  
Attorney for Applicant  
Registration No. 37,833

Date May 21, 2008

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*[Handwritten mark]*